Abstract Proceedings of the Travancore Legislative Council.

4. The following explanation shall be added to Section 5 of the said Regulation :—

"An application for leave to appeal as pauper is an 'appeal' within the meaning of this Section."

5. The following shall be substituted for the first three paras of Section 7 of the said Regulation :—

"If a person entitled to institute a suit or to make an application be, at the time from which the period of limitation is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period, after the disability has ceased, as would otherwise have been allowed from the time prescribed therefor in the 3rd column of the Schedule annexed to Regulation II of 1062.

"When he is, at the time from which the period of limitation is to be reckoned, affected by two such disabilities, or when before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period, after both the disabilities have ceased, as would otherwise have been allowed from the time so prescribed.

"When his disability continues up to his death, his legal representative may institute a suit or make an application within the same period after the death as would otherwise have been allowed from the time so prescribed."

6. For the first para of Section 8 of the said Regulation, the following shall be substituted :—

"If the disability to sue or to make an application begins after the time has begun to run, but before the expiration of the prescribed period, or if the person entitled to sue or to make an application dies after the time has begun to run, but before its expiration, and his legal representative is, at the date of his (former's) death, affected by any disability, the running of the time shall be suspended while the disability continues."

7. The first "or" in Section ten of the said Regulation shall be omitted.

8. The following para shall be added to Section 13 of the said Regulation :—

"If there are more persons than one liable to the Plaintiff's claim and some of them reside in India, the provisions of the first part of this Section shall not apply to persons residing in India; and any decree or judgment obtained against them shall not debar the Plaintiff from suing, on the same cause of action, the persons who were absent from India, on their return to India."

9. The following shall be substituted for Section 15 of the said Regulation :—

"In computing the period of limitation prescribed for any suit or for any *application*, the institution or making of which has been stayed by injunction or order, the time of the continuance of the injunction or order, the day on which it was issued or made and the day on which it was withdrawn shall be excluded."

10. The words "or for any application" shall be inserted between the words "suit" and "for possession"; and the words "or any other person interested in the property," after the word "judgment-debtor," in Section 16 of the said Regulation.

11. The following new Section shall be inserted between Sections 19 and 20 of the said Regulation :—

"19A. If, before the expiration of the period prescribed for the redemption of a mortgage, the mortgagee accepts from the mortgagor a Puravaipoo or Poorakadam deed creating a further charge on the mortgaged property and duly registered, the prescribed period of limitation shall be computed from the date of such Puravaipoo or Poorakadam deed.

"If, under the terms of the mortgage deed, the mortgagee is bound to pay warum to the mortgagor if such michavaram is, before the expiration of by the mortgagee to the mortgagor and if the by a duly registered receipt, the prescribed period n the date of such payment.

LIBRARY ARCHIVES Kerala Legislative Assembly

"*Explanation.*—The word 'mortgagee' includes any person who could legally represent the mortgagee or any person authorized by him to act on his behalf."

12. The following words shall be added to the Explanation to Section 21 of the said Regulation:—" or as applying to the interest or liability of the person who is a party to the written acknowledgment or payment, where such interest or liability is distinct from that of his joint contractors, partners, executors or mortgagees."

13. The following Section shall be substituted for Section 26 of the said Regulation:—

"Where the access and use of light or air to and for any building have been peaceably enjoyed therewith as an easment without interruption and for twenty years,

and where support from one person's land or things affixed thereto has been peaceably received by another person's land subjected to artificial pressure, or by things affixed thereto, as an easement, without interruption and for twenty years,

and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption and for twenty years,

the right to such access and use of light or air, support or other easement shall be absolute.

"Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

"*Explanation* I.—Nothing is an enjoyment within the meaning of this Section when it has been had in pursuance of an agreement with the owner or occupier of the property over which the right is claimed and it is apparent from the agreement that such right has not been granted as an easement, or, if granted as an easement, that it has been granted for a limited period, or subject to a condition on the fulfilment of which it is to cease.

"*Explanation* II.—Nothing is an interruption within the meaning of this Section unless where there is an actual cessation of the enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to, or acquiesced in, for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

"*Explanation* III.—Suspension of enjoyment in pursuance of a contract between the dominant and servient owners is not an interruption within the meaning of this Section.

"*Explanation* IV.—In the case of an easement to pollute water, the said period of twenty years begins when the pollution first prejudices perceptibly the servient heritage.

"When the property over which a right is claimed under this Section belongs to Government, this Section shall be read as if for the words 'twenty years' the words 'fifty years' were substituted.

Illustrations.

"(*a*). A suit is brought in 1068 for obstructing a right of way. The Defendant admits the obstruction, but denies the right of way. The Plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption from 1047 to 1067. The Plaintiff is entitled to judgment.

"(*b*). In a like suit, the Plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The Defendant proves that, for a year of that time, the Plaintiff was entitled to possession of the servient heritage as lessee thereof and enjoyed the right as such lessee. The suit shall be dismissed, for the right of way has not been enjoyed as an easement for twenty years.

"(*c*). In a like suit, the Plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The Defendant proves that the Plaintiff, on one occasion during the twenty years, had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right of way has not been enjoyed 'as of right' for twenty years."

LIBRARY ARCHIVES Kerala Legislative Assembly

14. The following new Section shall be entered after Section 28 of the said Regulation as Section 29 :—

"If any person is dispossessed, without his consent, of any house, building or land, otherwise than in due course of law, he or any person claiming through him may, by suit instituted within the period prescribed in Article 2 of the Schedule appended to Regulation II of 1062, recover possession thereof, notwithstanding any other title that may be set up in such suit.

"Nothing in this Section shall bar any person from suing to establish his title to such property and to recover possession thereof.

"No suit under this Section shall be brought against the Government."

15. The words "on any ground other than that the judgment-debtor or his family or tarward had no right, title and interest in the property sold" shall be added after the word "brought" in clause (a) under the first column of Article 8 of the Schedule appended to the said Regulation.

16. The following shall be substituted for Articles Nos. 97 and 98 of the Schedule appended to the said Regulation and Articles 58 and 98 shall be omitted.

97	For money due on a bond, pro-note or any other written agreement, registered or unregistered, that it shall be paid on demand.	6 years.	The date of the bond, note or agreement.

17. The following explanation shall be added to and entered under the first column of Article No. 104 of the Schedule appended to the said Regulation :—

"The words "father" and "Karnaven" in this article include the manager of a Makkathayom undivided Hindu family or of a Malabar Tarwad for the time being.

18. Article No. 131 of the said Schedule shall be omitted, and the words "or imprisonment for life" after the word "death" in the first column of Article No. 126;

the words "or appellant" after the word "plaintiff", the words "or respondent" after the word "defendant" in the first column of Article No. 146; and the words "or appellants" after the word "plaintiff's" in the 3rd column of Article No. 146;

the words "or the respondent" after the word "defendant" in two places in the first column of Article No. 147;

the words "or respondent's" after the word "defendant's" in the 3rd column of Article No. 147; and the words "or a memorandum of the decree or order relating to immoveable property is entered or filed as required by Section 52 of Regulation I of 1042" between the word "registered" and the words "six years" in column 2 of Article No. 153,

shall be inserted.

19. The words "the date of the order passed on such application or the date on which such order was carried out or" shall be added to clause four under 3rd column of Article No. 153 of the Schedule appended to the said Regulation and the words "the date of the service of such notice or" shall be added to clause 5 under 3rd column of the said article.

LIBRARY ARCHIVES Kerala Legislative Assembly